

REMARKS

Claims 14, 18-21, and 23-30 constitute the pending claims in the present application. Applicants respectfully request reconsideration in view of the following remarks. Issues raised by the Examiner will be addressed below in the order they appear in the prior Office Action.

The Examiner is advised that U.S. Patent Application 10/309,204 contains subject matter that may be related to the pending claims in the present application. In particular, Applicants draw the Examiner's attention to the fact that substantive examination may have occurred in that application, and Applicants invite the Examiner to review any Office Actions that have issued or will issue in these cases. At the Examiner's request, we will provide copies of any Office Actions and/or responses to Office Actions that have issued in these applications. By bringing this application to the Examiner's attention, Applicants do not waive the confidentiality provisions of 35 U.S.C. 122.

Rejection based on 35 U.S.C. 112, first paragraph. Claims 14-21 and 23-29 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for treating multidrug-resistant tumors, or inhibiting angiogenesis or metastasis, with a subgenus of the claimed compounds does not reasonably provide enablement for treating multidrug-resistant tumors, or inhibiting angiogenesis or metastasis with the full scope of the claimed compounds.

Applicants have amended claim 14 as the Examiner suggested such that R is hydrogen; R₁ is a pyridine structure of formula II, where the pyridine structure is bonded at either the 2, 3, or 4 position of the ring and is optionally substituted by substituents R₅ or R₆ or both R₅ and R₆; R₂ is a (C₁-C₆)-alkyl group, where the alkyl group is monosubstituted by phenyl, R₃ and R₄ can be identical or different and are independently selected from hydrogen, (C₁-C₆)-alkyl, (C₃-C₇)-cycloalkyl, (C₁-C₆)-alkanoyl, (C₁-C₆)-alkoxy, halogen and benzyloxy, or a nitro group, an amino group, a (C₁-C₄)-mono or dialkyl-substituted amino group, a (C₁-C₆) alkoxycarbonylamino group, or a (C₁-C₆)-alkoxycarbonylamino-(C₁-C₆)-alkyl group; R₅ and R₆ can be identical or different and are independently selected from (C₁-C₆)-alkyl, (C₃-C₇)-cycloalkyl, (C₁-C₆)-alkoxy, nitro, amino, hydroxyl, halogen, trifluoromethyl, ethoxycarbonylamino radical and a carboxyalkyloxy group in

which the alkyl group has 1-4 C atoms; and Z is O or S. Applicants respectfully point out to the Examiner that R₁ has been amended such that the pyridine ring may be unsubstituted or is optionally substituted with R₅ and/or R₆. Support for this amendment can be found in the paragraph beginning on page 2, line 24 of the application.

Applicants assert that the claims as amended define a subgenus that is clearly supported by the experimental data presented for D-24851; therefore, the claims as amended are fully compliant with the requirements of 35 U.S.C. 112, first paragraph. Applicants respectfully request reconsideration and withdrawal of this rejection.

Rejection based on double patenting. Claims 14-21 and 23-30 are rejected under nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 of 6,232,327.

Applicants agree to file a terminal disclaimer to overcome this rejection; however, Applicants are in the process of ensuring that all necessary assignments are properly recorded and all powers of attorney are on record and respectfully request that the Examiner hold this rejection in abeyance until such time that Applicants are able to secure the proper paperwork to submit a terminal disclaimer.

Rejection based on double patenting. Claims 14-21 and 23-30 are rejected under nonstatutory obviousness-type double patenting as being unpatentable over claims 2-6, 10, and 12 of 6,693,119.

Applicants agree to file a terminal disclaimer to overcome this rejection; however, Applicants are in the process of ensuring that all necessary assignments are properly recorded and all powers of attorney are on record and respectfully request that the Examiner hold this rejection in abeyance until such time that Applicants are able to secure the proper paperwork to submit a terminal disclaimer.

Rejection based on double patenting. Claims 14-21 and 23-30 are provisionally rejected under nonstatutory obviousness-type double patenting as being unpatentable over claims 11-14 and

Application No. 10/686,809
Amendment dated August 22, 2007
After Final Office Action of June 22, 2007

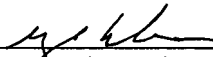
Docket No.: ZIPH-009-102

16-23 of copending Application No. 10/309,204. Applicants will address this rejection when it is no longer provisional.

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. Please charge our Deposit Account No. 18-1945, under Order No. ZIPH-009-102 from which the undersigned is authorized to draw, for any fees due or credit any overpayments.

Dated: August 22, 2007

Respectfully submitted,

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